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BUSY DAY IN COURT

The Carter Heirs and Trustee's Action.

SUM SUNG WAS FOUND GUILTY

No Executive Council Yesterday Owing to the Governor's Continued Illness.

The First Circuit Court was occupied all day yesterday with the case of the Territory vs. Lum Sung, the Chinaman who some months ago was charged with malicious injury in the beating of a horse to death. At the conclusion of the evidence the jury visited the scene of the alleged beating at Palama and upon returning to the court room the case was argued, Attorney Chillingworth presenting the case for the defendant and the prosecution being conducted by Deputy Attorney General Cathcart.

The jury on the case were: Jos. Lightfoot, P. E. R. Strauch, F. B. Damon, F. S. Lyman, C. J. Hutchins, Martin Bowers, I. Harbottle, Captain I. Bray, Chas. Bon, M. W. Parkhurst, J. J. McDonald and Arthur Coyne.

The jury found the Chinaman guilty. He will be sentenced today.

COURT NOTES.

In the case of E. K. Booth vs. Kahuku Plantation Company, the defendant, by its attorneys, W. R. Castle and P. L. Weaver, has filed an answer of general denial to plaintiff's complaint, stating that its intention is to reply on the statute of limitations.

The answer was filed subsequent to a stipulation extending the time to answer to April 23. Kinney, Ballou & McClanahan and H. A. Bigelow are attorneys for plaintiff, and Philip L. Weaver for the defendant.

The cases of the Territory of Hawaii vs. B. Kaunahi and Moke Nahuhi, which had been entered on the calendar of the First Circuit Court, as appealed from the District Court, were yesterday stricken off, it appearing that the fines had been paid and the appeal withdrawn.

The case of Alexander Maioho vs. William Maioho et al., which is an amicable controversy to procure the sale of lands in which several parties have interest, and the division of the proceeds among the parties, came up yesterday on petition before the First Circuit Court. The judge allowed the sale of the property of A. W. Maioho, deceased, described in the petition, on the Island of Oahu, but not the homestead property at Koloa, Kauai. W. O. Smith was appointed commissioner to sell the property at public auction, publication of notice to commence immediately, and report to be made to the court.

The case of the Territory vs. Crespo-rade Ales, under charge of selling liquor without a license, came up before the First Circuit Court yesterday. Defendant withdrew plea of not guilty, and entered a plea of guilty. On motion of Mr. Kaunahi, and no objections being offered, the court ordered sentence suspended for six months.

In the suit for abatement of nuisance of Manuel da Quadros against W. F. Frear, Young Un Choy and Josephine Goo Kim, the defendants yesterday, by their attorneys, Robertson & Wilder, demurred to the complaint on the alleged grounds that the court has no jurisdiction of the subject matter, that several causes of action have been improperly united, that the complaint does not state facts sufficient to constitute a cause of action, and that the complaint is ambiguous, unintelligible and uncertain.

It is specified that the demurrer is not intended for delay.

Motion to set a day for the hearing of argument in the case of Honolulu Stock Yards Co., Ltd., vs. W. C. Achi, together with notice of the presentation of such motion at 10 o'clock on April 20, has been made by the plaintiff, through his attorney, Wade Warren Thayer.

A joinder in demurrer with the defendant has also been filed by plaintiff. In the assumption action of Young Bow, doing business as Wing Mow Chan, against Leong Sam et al., notice was yesterday filed by Kinney, Ballou & McClanahan and H. A. Bigelow, attorneys for the plaintiff, giving notice that the examination of the garnishee will take place before the First Judge of the First Circuit Court on the morning of April 23. F. M. Brooks represents the attorney for plaintiff.

MAGDOON DEMURS.

In the action of Anna Gertz, in her own behalf and as executrix of the will of Christian Gertz, deceased, vs. J. Alfred Magdon, in his personal capacity as trustee, and C. H. Banning and B. R. Banning, John Buckley and Maria J. Forbes, the defendant, in his personal capacity and as trustee for C. H. Banning, yesterday filed a demurrer to the plaintiff's declaration in her bill to revoke foreclosure; the alleged grounds of the demurrer are that there is a misjoinder of causes of action, a misjoinder of parties plaintiff, a misjoinder of causes of action, that the bill is multi-farious; that the cause of action shows upon its face that it is barred by the statute of limitations; that the plaintiff does not offer to do equity by returning the principal of the mortgage, and the interest thereon; that the bill does not show any defect in the foreclosure proceedings that would affect bona fide purchasers for value without notice, and the said bill does not show that said John Buckley and said Maria J. Forbes were not bona fide purchasers for value without notice of plaintiff's alleged rights in the premises; that plaintiff's property is in plaintiff's title of sale of them, and that plaintiff is ambiguous, unintelligible and uncertain.

The demurrer is accompanied by a certificate by Magdon & Thompson, attorneys for defendant, that the demurrer is not intended for delay.

Defendant John Buckley, through his attorneys, Holmes & Stanley, also demurred upon the alleged grounds of insufficiency of cause, misjoinder of parties plaintiff, parties defendant, and causes of action; ambiguity, because of inability, and uncertainty, because of neglect to subscribe names of counsel filing the bill; because said bill

is multifarious, and because there is no offer on the part of plaintiff to do equity, to wit, to repay the defendant the amount of \$2,150 alleged to have been paid by him for the property on Queen street.

PROBATE.

Mrs. Ethel Hutchings, mother of Alice Hutchings, James Herbert Hutchings, Mabel Hutchings, Ethel Minnie Hutchings, George Edward Hutchings and Edith Gladys Hutchings, the minor heirs of the deceased father, yesterday applied to the court for an order appointing her guardian of the persons and property of said minors.

CRAP PLAYER DISCHARGED.

F. D. Haskell, who was found guilty by the District Court of violating section 391 of the Penal Laws in two different cases by playing craps with boys at Punahou and at the Pacific Mail dock, at which games money was lost and won; at the time of being found guilty and fined \$25 and costs in each case by said court the defendant noted an appeal from both judgments; in accordance with such appeal the cases came up yesterday before the First Circuit Court. Nolle prosequi was entered in both cases, and the defendant discharged. The defendant is now serving a two-year sentence in prison for stealing two cigars.

CARTER HEIRS CASE.

In the case of J. O. Carter, trustee, vs. Sybil A. Carter et al. for bill for advice and instructions, answer was yesterday filed by defendants, Sybil A. Carter, George R. Carter, Frances I. Crehore, Agnes C. Galt and Cordelia J. Carter.

The answer is one of general admission as to the facts set forth in the complaint. In substance, as to the plaintiff's trust, request to convey by Sybil A. Carter, plaintiffs' refusal, etc., but the defendants deny that they do claim or have claimed that "the request made to plaintiff to resign said trusts in favor of J. R. Galt rendered it obligatory or compulsory upon said plaintiff to resign, or that said request had any reference to the terms of the trust and relating to the incapability or unfitness of the trustee," or that Sybil A. Carter ever joined in any writing under her hand and seal nominating anyone else to be trustee under said deed. It is further alleged that the deed was in force at the date of the said request for a conveyance, and that said trustee was and is authorized by said trust deed to convey said property as requested, for which conveyance the defendants pray the order of the court.

It is also alleged that plaintiff's trust upon such property terminated when Cordelia J. Carter became twenty years of age, on May 17, 1896, and it then became the duty of plaintiff, as said trustee, to convey the property to the persons designated in the deed of trust. In conclusion, it is alleged that such conveyance (which the defendants now pray for) should have been made to include the heirs and legal representatives of Charles L. Carter, deceased, but the defendants are uncertain as to whether such conveyance should be made to include Mary H. S. Davis, on one hand, or H. A. P. Carter and Grace S. Carter, on the other hand.

GOVERNOR'S COUNCIL.

There was no meeting of the Executive Council, on account of the continued illness of the Governor.

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